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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,635	02/23/2004	Stuart Neale	DN 3721	8174
2128 7590 03/05/2008 HAVERSTOCK, GARRETT & ROBERTS LLP 611 OLIVE STREET SUITE 1610 ST. LOUIS, MO 63101				
EXAMINER				
YOO, JASSON H				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,635

Applicant(s)

NEALE ET AL.

Examiner

Jasson H. Yoo

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-8, 12-13, 18-21, 23 and 25-36 is/are pending in the application.
- 4a) Of the above claim(s) 26-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-8, 12-13, 18-21, 23, 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Newly submitted claims 26-36 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 3-8, 12-13, 18-21, 23, 25 are directed to a method and a system for real-time tracking and recording a contest by receiving event inputs from a user through a user interface. Claim 26-36 are directed to a method and system for real-time tracking and recording a contest without inputs from a user through a user interface. The originally filed invention (claim 3-8, 12-13, 18-21, 23, 25) may be simply a computer to store and retrieve game event data, whereas the new invention (claims 26-36) may be an automatic game play detection device.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 26-36 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-8, 12-13, 18-19, 21, 23, 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Descalzi (US 6,148,242).

Claim 21. Descalzi discloses a system for real-time tracking and recording events of a sports contest with a primary object of play, the sports contests including offensive and defensive competitive interaction between at least a first team and a second team in opposition therewith, each team having at least one player, comprising (real-time tracking device 10 in Fig. 1 is used to track and record a basketball event, see abstract):

at least one computer including a processor portion(26 in Fig. 1), and a user interface portion (keypad 31 and LCD 32 in Fig. 11), said computer interactively operable with a user under control of a computer program associated with said processor portion thereof,

a computerized database (stored in data storage 29 in Fig. 11) accessible through said computer program, said database including information therein indicative of recorded events of the sports contest (abstract, cols. 2:55-3:10, 7:1-7)

said computer program including a game module for controlling entry by the user of information during the sports contest, said game module operable to interpret the information regarding sports contest activities selectably entered by the user (abstract, cols. 2:55-3:10, 5:7-38, 5:63-6:10),

said computer programmed for

receiving from said user interface, one or more types of possessions input related to a plurality of events of sports contents, said possession input indicating the player in possession of the primary object of play (possession of the ball when indicating game events such as field goals, rebounds, turnovers, goals, cols 3:-41-58, 4:41-5:38),

interpreting said possession input from said user interface and determining an event based on said possession input (determining an updated statistics, percentage statistics, and cumulative statistics based on the possession input, col. 4:61-5-7),

receiving from said user interface, one or more types of event input related to a plurality of events of the sports contest (cols. 2:55-3:10, 5:7-38, 5:63-6:10),

interpreting said event input from said user interface (cols. 2:55-3:10, 3:55-67, 5:7-38, 5:63-6:10), and

storing data representative of said events based on possessions input and said events based on event inputs in said database (col. 7:1-7).

Claims 23 and 25. Descalzi discloses a method and a system for tracking and recording event of a fast paced or timed sports contest (See rejection for claim 21 above. Furthermore, a live basketball game is fast paced and timed. Descalzi further discloses a game clock and recording game periods, cols. 4:41-5:38).

Descalzi also discloses the computer user interface accepts a least one entry representative of information related to a plurality of events of the sports contest from

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the user (cols 3:-41-58, 4:41-5:38), interactively responding to the at least one entry of the user and communicating there within to establish a particular event by:

deducing a particular event based on one entry or a series of entries, or interactively eliciting and responding to additional entries representative of information related to the plurality of events from the user by display for selection by the user additional choices based on the at least one entry until the particular event is determined, or recognizing the at least one entry as the particular event (deducing an updated statistics, percentage statistics, and cumulative statistics based on the user input, col. 4:61-5-7),

displaying the particular event for verification by the user (an acknowledgment is made in response to player's inputs by outputting the particular event on the display device 14), and

storing the particular event in said database (col. 7:1-7).

Claim 7. Descalzi discloses the user interface includes a display (14 in Fig. 1).

Claim 8. Descalzi discloses the computer program interactively prompts the user for an input and provides said choices available on said display (Fig. 9).

Claim 12. Descalzi discloses the system includes remotely accessible information regarding the sports contest and wherein said computer is programmed to obtain said remotely accessible information prior to commencement of the sports event

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and to store said information in said database (Descalzi discloses data may be transferred between the system and a personal computer, col. 4:9-14. More specifically, Descalzi discloses program code is downloaded into the system from the computer, col. 6:58-67).

Claim 13. Descalzi discloses the computer is programmed to send information regarding the sports contest to remote computers, (cols. 4:9-14, 6:58-67).

Claim 18. Descalzi discloses a report module operable to interact with a user through said user interface to interactively access information from said database to produce reports related to said sports contest (cols. 4:41-5:57).

Claim 20. Descalzi discloses a location sensing portion and said computer program further comprising a motion module, said location sensing portion operable to relay spatial position information related to the sports contest

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Descalzi (US 6,148,242).

Claims 3-6. Descalzi discloses the claimed invention as discussed above. Descalzi further discloses a user input device such as a keyboard is used for the real-time tracking and recording system. However, Descalzi fails to specifically teach a mouse, a touch sensitive screen, a stylus, and an audio input is used as the user interface. Nevertheless a mouse, a touch sensitive screen, a stylus, and an audio input are well known user interfaces. Such interfaces are commonly used together or interchangeably in order to facilitate a user to input data onto a computer. Therefore it would have been obvious to one of ordinary skill in the art to at the time the invention was made to incorporate different user input devices in order to improve the system for real-time tracking and recording of event in a sport contest as taught by Descalzi in order to provide the predictable result of facilitating the user to input data onto the system.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Descalzi (US 6,148,242) as applied to claim 21 above, and further in view of Russo (US 6,710,713).

Descalzi discloses a system for real-time tracking and recording events of a sports contest as discussed above. However, Descalzi fails to teach that the system further comprises a location sensing portion and said computer program further

comprising a motion module, the location sensing portion operable to relay spatial position information related to the sports contest to said motion module, said motion module operable to translate said spatial position information into data related to the sports contest storable in said database. Nevertheless, the use of location sensors to track and record sporting events is well known in the art. In an analogous art to real-time tracking and recording events of a sports contest, Russo discloses a system comprising a location sensing portion (cols. 3-6, Fig. 4) and said computer program further comprising a motion module (cols. 3-6, Fig. 4), the location sensing portion operable to relay spatial position information related to the sports contest to said motion module, said motion module operable to translate said spatial position information into data related to the sports contest storable in said database (130 in Fig. 1). The sensing portion and motion module allows activities such as velocity, acceleration, and response time of individual sport players to be accurately measured. Such measurements may be used for evaluating the performance of an athlete (col. 1:26). Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Descalzi system for real-time tracking, and incorporate Russo's location sensing and motion module, in order to provide the predictable result of measuring and evaluating the performance of an athlete.

Response to Arguments

Applicant's arguments with respect to claims 3-8, 12-13, 18-21, 23, 25-36 have been considered but are moot in view of the new ground(s) of rejection.

It is also noted that Applicant did not provide specific arguments for the newly added claims 26-36. However, arguments for claims 26-36 are not necessary since claims 26-36 are withdrawn from consideration as being directed to a non-elected invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JHY
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